MADRAS ACT No. III OF 1905.[1]

[THE MADRAS LAND ENCROACHMENT ACT, 1905.]

[*6th June* 1905.]

An Act to provide measures for checking unauthorized occupation of lands which are [2][the property of Government,].

Preamble.

WHEREAS it has been the practice to check the unauthorized occupation of lands which are [2][the property of Government] by the imposition of penal or prohibitory assessment or charge, and whereas doubts have arisen as to how far such practice is authorized by law and it is expedient to make statutory provision for checking such occupation; It is hereby enacted as follows :—

Short title and extent.

1. This Act may be cited as "The Madras Land Encroachment Act, 1905." It extends to the whole of the Presidency of Madras.

Right of property in public roads, etc. waters and lands.

2. (1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark, and of rivers, streams, nalas, lakes and tanks, and all canals and watercourses, and all standing and flowing water, and all lands, wherever situated, save in so far as the same are the property—

(*a*) of any zamindar, poligar, mittadar, jagirdar, shrotriemdar or inamdar or any person claiming through or holding under any of them, or

(*b*) of any person paying shist, Kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or

(*c*) of any person holding under ryotwari tenure, including that of a janmi in Malabar, or of a wargdar in South Canara, or in any way subject to the payment of land-revenue direct to Government, or

(*d*) of any other registered holder of land in proprietary right, or

(*e*) of any other person holding land under grant from [3][the Government] otherwise than by way of licence,

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Part IV, dated 23rd December 1904, p. 595; for Report of the Select Committee, *see ibid*, dated 27th February 1905, p. 45; for Proceedings in Council, *see ibid*, dated 28th February 1905, p. 75, and *ibid*, dated 18th April 1905, p. 206.

[2] The words "Crown property" were substituted for the words "the property of Government" by the Adaptation Order of 1937 and the words "the property of Government" were substituted for "Crown property" by the Adaptation (Amendment) Order of 1950.

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

and, as to lands, save also in so far as they are temple site or owned as house-site or backyard,

are and are hereby declared to be [1][the property of Government] except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.

(2) All public roads and streets vested in any local authority shall, for the purposes of this Act, be deemed to be [1][the property of Government].

Explanation.—In this section " high water mark " means the highest point reached by ordinary spring-tides at any season of the year.

Levy of assessment on lands unauthorizedly occupied.

3. Any person who shall unauthorizedly occupy any land which is [1][the property of Government] shall be liable to pay by way of assessment—

(i) if the land so occupied forms an assessed survey number or part thereof, the full assessment of such number for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be, provided that, for special reasons, the Collector [2] [or subject to his control, the Tahsildar or Deputy Tahsildar] may impose the full assessment of such number or any lesser sum irrespective of the area occupied ;

(ii) if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village as the case may be, or when no such rates exist in such manner as may be prescribed in rules or orders under section 8 :

Provided that payment of assessment under this section shall not confer any right of occupancy.

Explanation.—For the purposes of this section occupation for an incomplete portion of a fasli may be deemed to be occupation for a whole fasli.

Conclusiveness of decision as to amount of assessment.

4. The [3][*] decision as to the rate or amount of assessment payable under section 3 shall be recorded in writing and shall not be questioned in any civil court.

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[1] The words " Crown property " were substituted for the words " the property of Government " by the Adaptation Order of 1937 and the words " the property of Government " were substituted for " Crown property " by the Adaptation (Amendment) Order of 1950.

[2] The words in square brackets were inserted by Mad. Act VIII of 1914, section 2.

[3] The word " Collector's " was omitted by *ibid.*

Liability of person unauthorizedly occupying land to penalty after notice.

5. Any person liable to pay assessment under section 3 shall also be liable at the discretion of the Collector, [1] [or subject to his control, the Tahsildar or Deputy Tahsildar] to pay in addition by way of penalty—

(i) if the land be assessed land, a sum not exceeding five rupees or, when ten times the assessment payable for one year under section 3 exceeds five rupees, a sum not exceeding ten times such assessment, provided that no penalty shall ordinarily be imposed in respect of the unauthorized occupation of such land for any period not exceeding one year ;

(ii) if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 3 exceeds ten rupees, a sum not exceeding twenty times such assessment.

Liability of person unauthorizedly occupying land to summary eviction, forfeiture of crops, etc.

6. (1) Any person unauthorizedly occupying any land for which he is liable to pay assessment under section 3 may be summarily evicted by the Collector, and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or any thing deposited thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged by the Collector and any property so forfeited shall be disposed of as the Collector may direct.

Mode of eviction.

(2) An eviction under this section shall be made in the following manner, namely :—By serving a notice in the manner provided in section 7 on the person reputed to be in occupation or his agent requiring him within such time as the Collector may deem reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector or of any Tahsildar or Deputy Tahsildar for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil jail of the district for the like period :

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under sections 183, 186, or 188 of the Indian Penal Code in respect of the same facts.

Central Act XVL of 1860.

[1] The words in square brackets were inserted by Madras Act VIII of 1914, section 2.

Prior notice to person in occupation.

7. Before taking proceedings under section 5 or section 6 the Collector [1] [or Tahsildar, or Deputy Tahsildar, as the case may be] shall cause to be served on the person reputed to be in unauthorized occupation of land being [2][the property of Government] a notice specifying the land so occupied and calling on him to show cause before a certain date why he should no be proceeded against under section 5 or section 6.

Such notice shall be served in the manner prescribed in section 25 of the Madras Revenue Recovery Act, 1864, or in such other manner as the [3][State Government] by rules or orders under section 8 may direct. Mad. Act II of 1864.

Power to make rules.

8. The [3] [State Government] may make rules or orders either generally or in any particular instance—

(*a*) regulating the rates of assessment leviable under section 3 ;

(*b*) regulating the imposition of penalties under section 5 ;

(*c*) declaring that any particular land or class of lands which are [2][the property of Government] shall not be open to occupation ;

(*d*) regulating the service of notices under this Act.

Such general rules or orders shall be made only after previous publication.

Recovery of assessment or penalty levied as arrears of land-revenue.

9. The amount of assessment and penalty imposed under this Act on any person unauthorizedly occupying any land shall be deemed to be land-revenue and may be recovered from him as arrears of land-revenue under the provisions of the Madras Revenue Recovery Act, 1864, or the Madras City Land Revenue (Amendment) Act, 1867, as the case may be. Mad. Act II of 1864. Mad. Act VI of 1867.

Appeal.

[4][**10.** (1) An appeal shall lie (*a*) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act, and (*b*) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (*c*) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by

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[1] The words in square brackets were inserted by Mad. Act VIII of 1914, section 2.

[2] The words " Crown property " were substituted for the words " the property of Government " by the Adaptation Order of 1937 and the words " the property of Government " were substituted for " Crown property " by the Adaptation (Amendment) Order of 1950.

[3] The words " Provincial Government " were substituted for the words "Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] This section was substituted by Madras Act VIII of 1914.

the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar, Tahsildar or Collector under this Act, and the Board of Revenue [1] [* * * *] may revise any decision or order passed by any officer under this Act.

(2) Pending the disposal of any appeal or petition for revision under this Act, the Collector, [2][the District Collector or the Board of Revenue] as the case may be, may suspend the execution of the order appealed against or sought to be revised.]

Limitation of appeal.

11. No appeal shall be brought after the expiration of sixty days from the date of the decision or order complained of, provided that in computing the period of sixty days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the prescribed period.

Document accompanying petition of appeal.

12. Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Saving of operations of other laws in force.

13. Nothing in this Act contained shall be construed as exempting any person unauthorizedly occupying land from liability to be proceeded against under any law for the time being in force :

Provided that if any penalty has been levied from any person under section 5 of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation.

Saving of suits by persons aggrieved by proceedings under Act.

14. Nothing contained in this Act shall be held to prevent persons deeming themselves aggrieved by any proceedings under this Act except as hereinbefore provided, from applying to the civil courts for redress ; Provided that the civil courts shall not take cognizance of any suit instituted by such person for any such cause of action unless such suit shall be instituted within six months from the time at which the cause of action arose.

Explanation.—The cause of action shall be deemed to have arisen—

(*a*) in respect of any assessment or penalty, on the date on which such assessment or penalty was levied ;

(*b*) in respect of eviction or forfeiture, on the date of eviction or forfeiture.

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[1] The words " or the Local Government " were omitted by section 3 (i) of the Madras Irrigation Cess and Land Encroachment (Amendment) Act, 1935 (Madras Act V of 1936).

[2] These words were substituted for the words " the District Collector, the Board of Revenue or the Local Government " by section 3 (ii), *ibid.*

Validation of levy of penal assessment before the passing of Act. Saving of pending suits.

15. Every proceeding taken by a Collector for the recovery of any sum of money by way of penal or prohibitory assessment or charge from any person who has unauthorizedly occupied any land hereby declared to be [1] [the property of Government] shall, if such sum has been recovered prior to the passing of this Act, be deemed to have been lawfully taken, provided that this section shall not apply to any suits pending when this Act comes into force in a Court of First Instance or in a Court of Appeal or affect the validity and operation of any decree or order already passed by a court of competent jurisdiction.

Certain persons deemed to be in unauthorized occupation of land.

[2] [**15-A.** Where a lease of land which is the property of the Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or

where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf have passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders,

shall, for the purposes of sections 3 to 15, be deemed to be a person unauthorizedly occupying such land.]

Saving of lands claimed by right of escheat or reversion.

16. Nothing in this Act [3][save as provided in section 15-A], shall apply to any lands claimed by right of escheat, [4][ ] or reversion until such lands have been reduced into possession by [5][the State Government].

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[1] The words " Crown property " were substituted for the words " the property of Government " by the Adaptation Order of 1937 and the words " the property of Government " were substituted for " Crown property " by the Adaptation (Amendment) Order of 1950.

[2] This section was inserted by section 2 of the Madras Land Encroachment (Amendment) Act, 1950 (Madras Act XXIX of 1950).

[3] These words, figures and letter were inserted by section 3, *ibid.*

[4] The word " resumption " was omitted by *ibid.*

[5] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

SCHEDULE.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 6.

Seal.

To

The Officer in charge of the Civil Jail at

Whereas *A.B.* of has resisted (or obstructed) *C.D.* in removing *E.F.* (or himself, that is, the said *A.B.*) from certain land in the village of in the taluk, and whereas it is necessary in order to prevent the continuance of such obstruction (or resistance) to commit the said *A.B.* to close custody, you are hereby required under the provisions of section 6 of the Madras Land Encroachment Act, 1905, to receive the said *A.B.* into the jail under your charge and there to keep him in safe custody for days

Dated this day of

(Signature of Collector).

MADRAS ACT No. III OF 1907.[1]

[THE MADRAS CITY POLICE (AMENDMENT) ACT, 1907.]

[*2nd May* 1907 ; *20th May* 1907.]

An Act to provide for the control by the Inspector-General of Police of the Administration of the Madras City Police.

WHEREAS it is expedient to place the Commissioner of Police, Madras, under the control and direction of the Inspector-General ; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Madras City Police (Amendment) Act, 1907, and it shall come into force on such date as the [3][State Government] may, by a notification in the [4][Official Gazette] direct. Title and [2] commencement.

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1907, Part IV, page 44 ; for Proceedings in Council, *see ibid*, page 74.

[2] This Act came into force on 1st September 1907, *see Fort St. George Gazette*, 1907, Part I, page 856.

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.